

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

SENICA HALE,

Petitioner,

v.

Case No. 14-10691

BENNY NAPOLEON,

Respondent.

**OPINION AND ORDER DISMISSING THE PETITION FOR WRIT OF
HABEAS CORPUS AND DENYING A CERTIFICATE OF APPEALABILITY**

Wayne County Jail pre-trial detainee Senica Hale (“Petitioner”) filed a *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging his pre-trial proceedings and current confinement. At the time he instituted this action, Petitioner did not pay the required filing fee or submit an application to proceed *in forma pauperis*. As such, on February 18, 2014, the court issued a deficiency order requiring Petitioner to either pay the filing fee or submit a properly completed *in forma pauperis* application. The order provided that if he did not do so within 21 days, his case would be dismissed. Petitioner has not corrected the deficiency, or otherwise responded to the court’s order.

Before Petitioner may appeal the court’s decision, a certificate of appealability must issue. See 28 U.S.C. § 2253(c)(1)(a); Fed. R. App. P. 22(b). A certificate of appealability may issue “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). However, when a district court denies habeas relief on procedural grounds without reaching the petitioner’s constitutional claims, a certificate may issue if the petitioner shows that jurists of reason

would find it debatable whether (1) the petition states a valid claim of a denial of a constitutional right; and (2) the district court was correct in its procedural ruling. *Slack v. McDaniel*, 529 U.S. 473, 484–85 (2000). In the instance case, the court concludes that reasonable jurists would not debate the court's conclusion that the petition should be summarily dismissed without prejudice. Accordingly,

IT IS ORDERED that the petition for writ of habeas corpus [Dkt. # 1] is DISMISSED WITHOUT PREJUDICE. The court makes no determination as to the merits of Petitioner's claims.

IT IS FURTHER ORDERED that a certificate of appealability is DENIED.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: March 21, 2014

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, March 21, 2014, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522